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REMARKS

Reconsideration of the application in view of the following comments is requested.

In the Office Action mailed Sept. 13, 2005, the Examiner rejected claims 3 and 11 under 35 USC Section 112, second paragraph. Claim 3 is amended to complete the claim. The Examiner states that "background data" is indefinite. Those skilled in that art will readily recognize that in communications systems, such as landline, cellular (e.g., UMTS) and data networks, a background class of downloads refers to best efforts communications of the type, for example, where the destination is not expecting the data within a certain time. Examples include emails and software update downloads. Background data would therefore be recognized as that data associated with a background download, and further although this type of data may be large, it is not necessarily large.

Claims 1 and 9 were rejected under 35 USC 102(e) as being anticipated by Forssell '860 and apparently Forssell '280. Claim 16 was rejected under 35 USC Section 102(e) as being anticipated by Landais. Claim 17 was rejected under 35 USC Section 102(e) as being anticipated by Chow et al. Claims 2 and 4 were rejected under 35 USC Section 103(a) as being unpatentable over Forssell '860 in view of Forssell '280. Claims 5-8, 14, and 15 were rejected under 35 USC 103(a) as being unpatentable over Forssell '280 in view of Landais. Claims 10 and 11 were rejected under 35 USC Section 103(a) as being unpatentable over Forssell '280 in view of Golden et al. Claim 12 was rejected under 35 USC Section 103(a) as being unpatentable over Forssell '280 in view of Forssell '860. Claim 13 was rejected under 35 USC Section 103(a) as being unpatentable over Forssell '280 in view of Landais. The Examiner's rejections are traversed in view of the following comments.

Claim 1 recites, *inter alia*,

- transmitting over-the-air that a virtual bearer mode of operation is supported;
- receiving a response; and
- selectively operating in a virtual bearer mode depending upon the response.

The Examiner states that Forssell discloses a virtual bearer, and points applicants to the portion of the Forssell specification describing a temporary block flow. A temporary block flow, as

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defined in the '860 specification, is created between the device and the network. This is a standard feature in GPRS/Edge.

Applicants' specification discloses a virtual bearer between the layers in a device (such as between the RLC and LLC in a mobile) or between the layers in a network. A virtual bearer is between the device and the network. A link between the mobile and the network, or a temporary block flow, can not reasonably be interpreted to be a virtual bearer, and can not anticipate the claimed invention.

Claim 4 recites, *inter alia*:

a radio link controller coupled to lower layers;
a virtual bearer including a buffer storing at least one logical link controller frame of a communication signal; and
a logical link controller coupled to the virtual bearer for receiving logical link controller frames from the logical link controller;
wherein the virtual bearer is operative to apply flow control to the lower layers in order to maintain a predetermined queue state target.

The Examiner points Applicants to a discussion in the '280 patent pertaining to a RAM storing required data, a TBF, Packet flow control and mapping. However these sections of the reference do not describe a virtual bearer operative to apply flow control to the lower layers in order to maintain a predetermined queue state, and accordingly can not anticipate or render the claims unpatentable.

Claim 9 recites:

determining that a virtual bearer is required on the downlink; and
transmitting the virtual bearer type.

As noted above, the '280 and '860 patents do not disclose a virtual bearer, and therefore can not disclose a type of virtual bearer being transmitted. The '280 patent discloses radio bearers on which TBFs are mapped, but these are clearly not virtual bearers, or virtual bearer types.

Claim 14 recites:

determining that a virtual bearer is required on the downlink; and
over-dimensioning the downlink signal to accommodate a cell change by the mobile during a virtual bearer mode of operation.

As noted above, the '280 patent does not disclose a virtual bearer. It also fails to disclose determining that a virtual bearer is required. It also fails to disclose or over-dimensioning during a virtual bearer mode of operation. Landais also fails to disclose determining that a

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virtual bearer is required. Furthermore, Landais fails to disclose over-dimensioning the downlink signal to accommodate a cell change during a virtual bearer mode. Accordingly, the references, even if combined as suggested by the Examiner, fail to disclose the claimed invention.

Claim 16 recites:

storing at least one frame of a communication signal received from a network;
and
applying flow control to the lower layers in a virtual bearer responsive to a determination that a cell change is imminent.

Landais fails to disclose a virtual bearer or applying flow control to the lower layers in a virtual bearer, let alone applying flow control to the lower layers in a virtual bearer responsive to a determination that a cell change is imminent. In Landais, paragraph's 29 and 30 describe flow control at the network to hold transmissions to the mobile, such that the network stops transmitting to the mobile until the mobile transmits the identity of the target reselected cell. While applicant's invention offers an improvement in the user experience where the cell reselection steps of Landais take place, Landais does not show or suggest virtual bearer operation or operating a virtual bearer to accommodate cell reselection as defined in the claims.

Claim 17 recites:

receiving a downlink streaming signal at a first data rate; and
outputting the signal at a slower rate during at least a portion of the transmission.

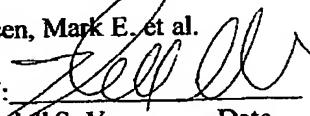
Chow discloses negotiating a bit rate, and as the quality of the channel changes over time, negotiating a different rate. This however neither shows nor suggests receiving streaming data at a first rate and outputting data at a slower rate during at least a portion of the transmission. Accordingly, Chow can not anticipate the claimed invention.

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Accordingly, it is submitted that prior art fails to teach the invention defined in the independent claims, let alone the subject matter in the claims dependent therefrom. The claims are submitted to be in condition for allowance, and a Notice of Allowance is solicited.

Respectfully Submitted

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